



General Assembly

February Session, 2016

Substitute Bill No. 5635

* _____HB05635JUD_____032216_____*

AN ACT CONCERNING FRAUD COMMITTED THROUGH TELEPHONE SOLICITATION AND ACCESS TO TELEPHONE RECORDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2016*) (a) A person is guilty of
2 telephone fraud in the first degree when such person (1) knowingly or
3 intentionally devises or participates in a scheme to defraud another
4 person of money or property, (2) (A) employs false pretenses or false
5 promises, as described in section 53a-119 of the general statutes, to
6 obtain such money or property and the amount of such money or the
7 value of such property exceeds twenty thousand dollars, or (B)
8 regardless of its value, obtains such money or property by extortion,
9 and (3) uses a telephonic call, including, but not limited to, a call made
10 by an individual, an automated telephone call and a recorded message,
11 to obtain such money or property from such other person.

12 (b) Telephone fraud in the first degree is a class B felony.

13 Sec. 2. (NEW) (*Effective October 1, 2016*) (a) A person is guilty of
14 telephone fraud in the second degree when such person (1) knowingly
15 or intentionally devises or participates in a scheme to defraud another
16 person of money or property, (2) employs false pretenses or false
17 promises, as described in section 53a-119 of the general statutes, to
18 obtain such money or property and the amount of such money or the
19 value of such property exceeds ten thousand dollars, and (3) uses a
20 telephonic call, including, but not limited to, a call made by an

21 individual, an automated telephone call and a recorded message, to
22 obtain such money or property from such other person.

23 (b) Telephone fraud in the second degree is a class C felony.

24 Sec. 3. (NEW) (*Effective October 1, 2016*) (a) A person is guilty of
25 telephone fraud in the third degree when such person (1) knowingly or
26 intentionally devises or participates in a scheme to defraud another
27 person of money or property, (2) employs false pretenses or false
28 promises, as described in section 53a-119 of the general statutes, to
29 obtain such money or property and the amount of such money or the
30 value of such property exceeds two thousand dollars, and (3) uses a
31 telephonic call, including, but not limited to, a call made by an
32 individual, an automated telephone call and a recorded message, to
33 obtain such money or property from such other person.

34 (b) Telephone fraud in the third degree is a class D felony.

35 Sec. 4. (NEW) (*Effective October 1, 2016*) (a) A person is guilty of
36 telephone fraud in the fourth degree when such person (1) knowingly
37 or intentionally devises or participates in a scheme to defraud another
38 person of money or property, (2) employs false pretenses or false
39 promises, as described in section 53a-119 of the general statutes, to
40 obtain such money or property and the amount of such money or the
41 value of such property exceeds one thousand dollars, and (3) uses a
42 telephonic call, including, but not limited to, a call made by an
43 individual, an automated telephone call and a recorded message, to
44 obtain such money or property from such other person.

45 (b) Telephone fraud in the fourth degree is a class A misdemeanor.

46 Sec. 5. (NEW) (*Effective October 1, 2016*) (a) A person is guilty of
47 telephone fraud in the fifth degree when such person (1) knowingly or
48 intentionally devises or participates in a scheme to defraud another
49 person of money or property, (2) employs false pretenses or false
50 promises, as described in section 53a-119 of the general statutes, to
51 obtain such money or property and the amount of such money or the

52 value of such property exceeds five hundred dollars, and (3) uses a
53 telephonic call, including, but not limited to, a call made by an
54 individual, an automated telephone call and a recorded message, to
55 obtain such money or property from such other person.

56 (b) Telephone fraud in the fifth degree is a class B misdemeanor.

57 Sec. 6. (NEW) (*Effective October 1, 2016*) (a) A person is guilty of
58 telephone fraud in the sixth degree when such person (1) knowingly or
59 intentionally devises or participates in a scheme to defraud another
60 person of money or property, (2) employs false pretenses or false
61 promises, as described in section 53a-119 of the general statutes, to
62 obtain such money or property and the amount of such money or the
63 value of such property is five hundred dollars or less, and (3) uses a
64 telephonic call, including, but not limited to, a call made by an
65 individual, an automated telephone call and a recorded message, to
66 obtain such money or property from such other person.

67 (b) Telephone fraud in the sixth degree is a class C misdemeanor.

68 Sec. 7. Section 54-47aa of the general statutes is repealed and the
69 following is substituted in lieu thereof (*Effective October 1, 2016*):

70 (a) For the purposes of this section:

71 (1) "Basic subscriber information" means: (A) Name, (B) address, (C)
72 local and long distance telephone connection records or records of
73 session times and durations, (D) length of service, including start date,
74 and types of services utilized, (E) telephone or instrument number or
75 other subscriber number or identity, including any assigned Internet
76 protocol address, and (F) means and source of payment for such
77 service, including any credit card or bank account number;

78 (2) "Call-identifying information" means dialing or signaling
79 information that identifies the origin, direction, destination or
80 termination of each communication generated or received by a
81 subscriber or customer by means of any equipment, facility or service

82 of a telecommunications carrier;

83 (3) "Electronic communication service" means "electronic
84 communication service" as defined in 18 USC 2510, as amended from
85 time to time;

86 (4) "Law enforcement official" means the Chief State's Attorney, a
87 state's attorney, an inspector with the Division of Criminal Justice, a
88 sworn member of the Division of State Police within the Department of
89 Emergency Services and Public Protection or a sworn member of an
90 organized local police department;

91 (5) "Remote computing service" means "remote computing service"
92 as defined in section 18 USC 2711, as amended from time to time; and

93 (6) "Telecommunications carrier" means "telecommunications
94 carrier" as defined in 47 USC 1001, as amended from time to time.

95 (b) A law enforcement official may request an ex parte order from a
96 judge of the Superior Court to compel (1) a telecommunications carrier
97 to disclose call-identifying information pertaining to a subscriber or
98 customer, or (2) a provider of electronic communication service or
99 remote computing service to disclose basic subscriber information
100 pertaining to a subscriber or customer. The judge shall grant such
101 order if the law enforcement official states a reasonable and articulable
102 suspicion that a crime has been or is being committed or that exigent
103 circumstances exist and such call-identifying or basic subscriber
104 information is relevant [and] or material to an ongoing criminal
105 investigation. The order shall state upon its face the case number
106 assigned to such investigation, the date and time of issuance and the
107 name of the judge authorizing the order. The law enforcement official
108 shall have any ex parte order issued pursuant to this subsection signed
109 by the authorizing judge [within] not later than forty-eight hours or
110 [not later than] the next business day after the issuance of such order,
111 whichever is earlier.

112 (c) A telecommunications carrier shall disclose call-identifying

113 information and a provider of electronic communication service or
114 remote computing service shall disclose basic subscriber information
115 to a law enforcement official when an order is issued pursuant to
116 subsection (b) of this section.

117 (d) Not later than forty-eight hours after the issuance of an order
118 pursuant to subsection (b) of this section, the law enforcement official
119 shall mail notice of the issuance of such order to the subscriber or
120 customer whose call-identifying information or basic subscriber
121 information is the subject of such order, except that such notification
122 may be delayed for a period of up to ninety days upon the execution of
123 a written certification of such official to the judge who authorized the
124 order that there is reason to believe that notification of the existence of
125 the order may result in (1) endangering the life or physical safety of an
126 individual, (2) flight from prosecution, (3) destruction of or tampering
127 with evidence, (4) intimidation of potential witnesses, or (5) otherwise
128 seriously jeopardizing the investigation. The law enforcement official
129 shall maintain a true copy of such certification. During such ninety-day
130 period, the law enforcement official may request the court to extend
131 such period of delayed notification. Such period may be extended
132 beyond ninety days only upon approval of the court.

133 (e) A telecommunications carrier or provider of electronic
134 communication service or remote computing service that provides
135 information pursuant to an order issued pursuant to subsection (b) of
136 this section shall be compensated for the reasonable expenses incurred
137 in providing such information.

138 (f) Any telecommunications carrier or provider of electronic
139 communication service or remote computing service that provides
140 information in good faith pursuant to an order issued pursuant to
141 subsection (b) of this section shall be afforded the legal protections
142 provided under 18 USC 3124, as amended from time to time, with
143 regard to such actions.

144 (g) Not later than January fifteenth of each year, each law

145 enforcement official shall report to the Chief State's Attorney the
 146 information required by this subsection with respect to each order
 147 issued pursuant to subsection (b) of this section in the preceding
 148 calendar year. The Chief State's Attorney shall, based upon the reports
 149 filed by each law enforcement official and not later than January thirty-
 150 first of each year, submit a report, in accordance with the provisions of
 151 section 11-4a, to the joint standing committee of the General Assembly
 152 having cognizance of matters relating to criminal law and procedure
 153 concerning orders issued pursuant to subsection (b) of this section in
 154 the preceding calendar year. The report shall include the following
 155 information: (1) The number of orders issued, (2) whether the order
 156 was directed to a telecommunications carrier, provider of electronic
 157 communication service or provider of remote computing service, (3)
 158 whether the information sought was call-identifying information or
 159 basic subscriber information, (4) the statutory offense or offenses that
 160 were the subject of the investigation, (5) the number of notifications
 161 that were delayed pursuant to subsection (d) of this section, and the
 162 reason for such delayed notification, (6) the number of motions to
 163 vacate an order that were filed, and the number of motions granted or
 164 denied, (7) the number of investigations concluded and the final result
 165 of such investigations, and (8) the status of any criminal prosecution
 166 resulting from the investigation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	New section
Sec. 2	<i>October 1, 2016</i>	New section
Sec. 3	<i>October 1, 2016</i>	New section
Sec. 4	<i>October 1, 2016</i>	New section
Sec. 5	<i>October 1, 2016</i>	New section
Sec. 6	<i>October 1, 2016</i>	New section
Sec. 7	<i>October 1, 2016</i>	54-47aa

Statement of Legislative Commissioners:

In Sections 1 through 6, inclusive, "voluntarily and intentionally" was changed to "knowingly or intentionally" for conformity with existing *mens rea* descriptions in the penal code.

JUD *Joint Favorable Subst. -LCO*